

Jun 09, 2025

s/ MMK

Deputy Clerk, U.S. District Court
Eastern District of Wisconsin

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

United States of America

v.

HEBER TZOY-TZOY

(DOB xx/xx/2004)

Case No. 25 MJ 89

Defendant(s)

CRIMINAL COMPLAINT


I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 15, 2024 in the county of Milwaukee in the
Eastern District of Wisconsin, the defendant(s) violated:*Code Section**Offense Description*

18 USC 922(g)(5) & 924(a)(8)

Illegal Alien in Possession of a Firearm

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.*Complainant's signature*

Anthony Winkler, ATF Special Agent

*Printed name and title*Sworn via telephone; transmitted via email
pursuant to Fed. R. Crim. 4.1Date: 06/09/2025*Judge's signature*City and state: Milwaukee, Wisconsin

William E. Duffin, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Anthony Winkler, being first duly sworn, state that the following information is true to the best of my knowledge, information, and belief:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter "ATF"). As such, I am "an investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States," within the meaning of Section 3051(a) of Title 18, United States Code; that is, an officer of the United States who is empowered by law to conduct investigations of, execute warrants and to make arrests for offenses against the United States and offenses enumerated in United States Code Title 18 and Title 21. I have been employed with the ATF since March 2016, and am currently assigned to the Milwaukee Field Office, under the Chicago Field Division. I completed Criminal Investigative Training and Special Agent Basic Training at the Federal Law Enforcement Training Center. I have received training on, in connection with, and conducted investigations of violations of the National Firearms Act, Gun Control Act, and Title 18, United States Code, Sections 922(g), 924(c) and others. I have also received training and conducted investigations involving illicit drugs and the distribution of illicit drugs in violation of Title 21, United States Code, Sections 841, 843, 846 and others.

2. I submit that based upon the following facts, there is probable cause to believe that HEBER TZOY-TZOY (DOB xx/xx/2004) (hereinafter "TZOY-TZOY") committed the crime of possession of a firearm while being an illegal alien, in violation of Title 18, United States Code, Sections 922(g)(5) and 924(a)(8).

3. Because this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint and corresponding arrest warrant for TZOY-TZOY, I have

not included each and every fact known to me concerning this investigation. Instead, I have set forth only the facts that I believe are necessary to establish probable cause.

4. In December of 2024, the Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter “ATF”) initiated an investigation into TZOY-TZOY. Case agents reviewed Milwaukee Police Department reports detailing an individual involved in a traffic accident who was also in possession of a firearm.

5. On or about September 15, 2024, at approximately 9:24 a.m., Officers from the Milwaukee Police Department were dispatched to S. 26th St and W. Burnham St. in Milwaukee, Wisconsin, after receiving calls regarding a traffic accident and an individual with a firearm. Witnesses to the accident reported that the driver and sole occupant of a black Dodge pick-up truck had hit multiple parked cars and then crashed the Dodge truck. The witnesses approached the driver to render aid, and the driver became combative and attempted to flee the scene. The witnesses apprehended him until the police arrived at the scene. The witnesses observed that the driver, later identified as HEBER TZOY-TZOY, appeared to be intoxicated and disoriented. While apprehending the driver, they also observed a firearm on the floorboard of the Dodge truck.

6. Upon arriving at the accident scene, Officers placed TZOY-TZOY in the back of a police vehicle. They began to ask TZOY-TZOY his name and date of birth. TZOY-TZOY was unable to provide his name or date of birth. While seated in the squad car, TZOY-TZOY stated, without prompting, “I made a mistake I touched the gun, I dropped it in my car, I never drank before, I used cocaine.” In addition, Officers noted the driver had a strong odor of intoxicant as well as observing five empty bottles of beer on the passenger floorboard of the vehicle. Officers recovered the firearm from the vehicle, which was further described as a Glock 23, .40 caliber pistol, bearing serial number BUCUS507, and it was loaded with 17 rounds of ammunition.

Officers also recovered a small baggie containing approximately 0.59 grams of suspected marijuana. Inside the vehicle, Officers also located a Guatemalan identification card with the name Eliseo Us-Ixcotoyac. Officers then began referring to the driver by the name “Eliseo.” “Eliseo” then told the officers that was not his name but a fake name he uses for work, but he still failed to give officers any other name. Officers also reported that “Eliseo” stated he was not a US citizen.

7. Milwaukee Police Officers transported “Eliseo” to District 2 for a field sobriety test which he refused. He was then taken to St. Francis Hospital for a blood draw.

8. TZOY-TZOY was issued municipal citations for Operating While Under the Influence, Operating with PAC > 0.15, and Operating without a Valid License.

9. On November 18, 2024, TZOY-TZOY appeared in municipal court on the citations. At that time, a police officer and an Assistant City Attorney discussed with TZOY-TZOY what was his true name. He reported that TZOY-TZOY was his real name and presented a Guatemalan application for a birth certificate with the name HEBER TZOY-TZOY (DOB xx/xx/2004). In addition, a Department of Homeland Security record search show no record of legal entry or application for legal entry into the United States.

10. On February 11, 2025, ATF agents examined the firearm located in TZOY-TZOY’s vehicle and identified it as a Glock 23, .40 caliber pistol, bearing serial number BUCUS507. Agents were able to determine that the firearm was manufactured in the country of Austria meaning the firearm traveled in and effected interstate commerce.

11. On February 20, 2025, a criminal complaint was filed in Milwaukee County Circuit Court charging HEBER TZOY-TZOY, aka MARIO GARCIA-TORRES, with Operating a Firearm while Intoxicated, Case No. 2025CM0533, based upon the conduct described above.

12. On or about February 20, 2025, TZOY-TZOY was issued, via U.S. Mail, a summons to appear in Milwaukee County Court on March 17, 2025, to address the above-described charge. TZOY-TZOY failed to appear on March 17, 2025. An arrest warrant was then issued for TZOY-TZOY's arrest.

13. On or about May 30, 2025, near the area of 2200 block of W. National Ave. in Milwaukee, Wisconsin, immigration authorities witnessed a male, matching the description of TZOY-TZOY, enter the driver's door of a silver Ford Focus. This vehicle is registered to TZOY-TZOY's brother, Eliseo US-Ixcotoyac, and during previous surveillance of the vehicle, FBI Agents witnessed an individual, matching TZOY-TZOY's description, enter the vehicle and depart from that area. On or about May 30, 2025, after seeing a person they believed was TZOY-TZOY enter the vehicle, immigration authorities attempted to conduct a traffic stop of the vehicle by activating their emergency lights. TZOY-TZOY disregarded the attempted traffic stop and began to flee immigration authorities by driving over a curb onto a grassy area outside a building. Authorities discontinued the attempted traffic stop and watched as TZOY-TZOY continued to drive away in the grass. Authorities later went back to follow the tire tracks in the grass which led to an approximately four-foot-tall concrete retaining wall. The tire tracks indicated the vehicle had driven off the retaining wall, over a public sidewalk, and onto a public street. Immigration authorities then interviewed a witness who stated the car drove over the wall, landed on the street, and drove away.

14. Based on all the foregoing, there is probable cause to believe that on September 15, 2024, in the State and Eastern District of Wisconsin, Heber TZOY-TZOY, knowing he was an illegal alien, did knowingly possess a firearm in violation of Title 18, United States Code, Sections 922(g)(5) and 924(a)(8).